

Remarks

A. Claims in the Case

Claims 1-27, 30-60, 62-101, 104-145 are pending. Claims 1-27, 30-101, 104-143 are rejected. Claims 30, 31, 40, 53-60, 62-64, and 66-71 have been amended. Claims 144 and 145 are new.

B. Objections

Claims 30 and 31 were objected to for informalities. Claims 30 and 31 have been amended for clarification.

Claims 57 and 61 were objected because of duplicity. Claim 61 has been cancelled.

C. The Claims Are Not Indefinite Pursuant To 35 U.S.C. § 112, Second Paragraph

Claims 28, 29, 54-64, 66-70, 102, and 103 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant respectfully disagrees, however, to expedite prosecutions claims 28, 29, 61, 102, and 103 have been cancelled. Claims 54-60, 62-64, and 66-70 have been amended for clarification.

D. The Claims Are Not Anticipated Over Guinta et al. Under 35 U.S.C. 102(b)

Claims 65, 66, 69-71, 113, 114, and 118-122 were rejected as being anticipated by U.S. Patent No. 5,737,494 to Guinta et al. (hereinafter "Guinta"). Applicant respectfully disagrees with these rejections.

The standard for “anticipation” is one of fairly strict identity. A claim can only be anticipated if each and every element set forth in the claims is found to be either expressly or inherently described in the cited art. *Verdegaal Bros. V. Union Oil Co. of California*, 814 F.2d 728, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987), MPEP § 2131.

Claims 65 and 113 include a combination of features including, but not limited to, the feature of “determine a second allowed input range for a second user adjustable icon based on the first input.”

Applicant submits that Guinta does not teach that the second allowed input range for a second user adjustable icon is determined based on the first input. In the section of Guinta cited by the Office Action, Guinta teaches that the second numerical input is a separate question related to the assessment of the organizations quality policy. Guinta states: “FIG. 5E prompts the assessor to input a second numerical input which reflects the assessor’s perception of how well the process is deployed. In other words, the assessor inputs a numerical evaluation of how extensively the assessed process (or system is actually used or deployed” (Guinta, column 18, lines 37-40). As can be seen from FIG. 5E, the range available for selection by the user is between 0% and 100%. Guinta does not teach or suggest that this available range is modified and/or determined based on the first input.

Applicant’ Specification states in part:

In addition to assessing an existing process or system, an organizational assessment system may be configured to prompt assessors to provide recommended changes or improvements to an existing process or system. In an embodiment, the recommendation may be accompanied by a measure of the expected benefit to accompany the recommendation. An assessor may provide numeric input via a user adjustable icon system. In an embodiment, a user adjustable icon system may comprise two user adjustable icons wherein the range of allowed input for a second user adjustable icon, is limited by input from a first user adjustable icon. In an embodiment, the user adjustable icons may be sliding bars, as depicted in FIGs. 10A-C. For example, the range of allowed second numerical input in a second selected scale may be limited by a first numerical input selection made on a first scale. In such an example, the first input may represent the assessor’s perception of the effectiveness of an existing process or system, and the second numerical input may represent the assessor’s perception of the expected effectiveness of the process or system after the recommended change is made. A user may be prompted to

provide a first numeric input corresponding to the user's perception of the current performance of an organizational process or system (FIG. 10A). For example, a first input may be made by selecting 65 on a sliding bar having a range of 0-100 (FIG. 10B). The range of a second sliding bar for a second numerical input may then be limited by the computer to have a 65-100 scale (FIG. 10C).

(Specification, page 17, line 19 - page 18, lines 2-7).

As discussed in the section cited above, Applicant's process includes modifying the available range of answers for a subsequent question based on input to a first question. Applicant submits that the combination of the features of the claims including, but not limited to, the feature of, "determine a second allowed input range for a second user adjustable icon based on the first input" is not taught by Guinta. As such, Applicant submits that claims 65 and 113 and the claims dependent thereon are patentable over Guinta.

Claim 71 includes a combination of features directed towards a method to gather information about an organizational process or system, that includes, but is not limited to, the feature of: "obtaining information about the organization to be accessed, wherein the information comprises information regarding assessors."

Guinta does not teach or suggest the feature of the claim including, but not limited to, "the information comprises information regarding assessors." Guinta teaches that the assessor has at least some knowledge about the organizational process or system. Guinta states, "Typically the assessor has at least some knowledge about the organizational process or system" (Guinta, column 5, lines 62-63).

Applicant's specification states:

Assessment initiator system 210 may interact with an assessment initiator. The "assessment initiator" may be a person initiating the organizational process or system assessment. The initiator may be required to go through multiple security methods to ensure security in user access and privacy of information. Security methods may include, but are not limited to use of certificates, cookies, secure socket layers, virtual private networks, firewalls, etc. For example, the assessment initiator may be a company president or senior officer. Assessment initiator system 210 may, for example, identify personnel to act as assessors for the information gathering system 212. Assessment initiator system 210 may also

identify subject matter to be assessed. Assessment initiator system 210 may also gather general organizational characteristics.
(Specification, page 7, lines 6-17).

Upon entry of such information by the human assessor, the assessment initiator system suitably generates at least one question configured to identify personnel with substantive knowledge of specific subjects pertinent to the assessment (step 314). Such personnel may include, for example, high-ranking employees, supervisors, board members, officers or the like. For example, a first question may request the name and office location of the director of purchasing, and a second question may ask for similar information for the director of human resources. Any number of questions may be posed to identify any number of persons or departments likely to possess relevant information. The nature of these questions may be adjusted according to previous information submitted by the human assessor. For example, if the human assessor previously indicated that the organization has no computer system, questions for identifying the director of computer systems may be omitted. Similarly, if the human assessor indicated that the organization has a legal department, the assessment initiator system 210 may request further information, such as names and office locations for the general counsel, chief patent counsel, and chief litigation counsel

....Notification system 216 may then initiate information gathering system 212 by notifying appropriate individuals identified by assessment initiator system 210 that the individuals have been selected as assessors to gather specific information relating to the relevant organization within the assessment timeline.
(Specification, page 9, line 19 through page 10, line 19).

Applicant submits that the combination of features of claim 71 including, but not limited to, the feature of, “the information comprises information regarding assessors” is not taught by Guinta. Specifically, Guinta does not teach or suggest the use of an “assessment initiator system.” Although the system of Guinta includes predetermined questions for assessing an organization, Guinta does not teach that the predetermined questions may be customized by a user prior to initiating the assessment session. As such, Applicant submits that claim 71 and the claims dependent thereon are patentable over Guinta.

E. The Claims Are Not Obvious Over Guinta In View of Barton et al. Pursuant To 35 U.S.C. § 103(a)

Claims 1-24, 30-47, 59, 52-57, 62-64, 67, 68, 72, 73, 78-99, 104-112, 115-117, 123-134,

and 138-143 were rejected as being unpatentable over Guinta in view of U.S. Published Application No. 2002/0059093 to Barton et al. (hereinafter "Barton"). Applicant respectfully disagrees with these rejections.

In order to reject a claim as obvious, the Examiner has the burden of establishing a *prima facie* case of obviousness. *In re Warner et al.*, 379 F.2d 1011, 154 USPQ 173, 177-178 (C.C.P.A. 1967). To establish a *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974), MPEP § 2143.03.

Claims 1, includes a combination of features directed toward a method of using a computer to gather information about an organizational process or system that includes, but is not limited to, the feature of, "prompting an assessor to select at least two standards against which to assess the organization process or system."

The Office Action states:

Guinta et al does not explicitly disclose prompting an assessor to select at least two standards against which to assess the organizational process or system. Barton et al disclose interview 78 conducted with process owners for areas of compliance (§ 0059) wherein interview 78 is conducted in accordance with a question owner's matrix 100 (§ 0062). Question owner's matrix 100 lists compliance assessment area 102 which are presented to the assessor as selected standards on which the assessment is based (§ 0062, figure 4). (Office Action, page 8).

Applicant submits that Guinta in combination with Barton does not appear to teach or suggest the feature of the claim, "prompting an assessor to select at least two standards against which to assess the organization process or system."

Barton states:

Interviews 78 are conducted with process owners for area compliance program status. As used herein interviewing means receiving information. Interviewing includes receiving information via a questionnaire, which may be stored within

server 12 as part of the knowledge base. As described above, the knowledge base is stored in a central database within server 12 and may include a questionnaire spreadsheet 80.

(Barton, paragraph 0060)

In one embodiment, interviews 78 (shown in FIG. 3) are conducted in accordance with a question owner's matrix. More specifically, FIG. 4 shows one embodiment of a question owner's matrix 100. A question owner's matrix 100 is used as a guideline for identifying an interviewee for each sub-group of questions. The question owner's matrix 100 is constructed using the knowledge base within server 12. The knowledge base may include any information relevant to conducting an interview relating to compliance. The knowledge base may include, for example, information associating a group of questions with relevant functional knowledge, a summary of the details of program current status, improvement opportunities, identification of action item owners and a list of potential best practices. The question owner's matrix 100 lists compliance assessment areas 102. Compliance assessment areas 102 are any areas of a business that are being reviewed for compliance. Examples of compliance assessment areas 102 include, but are not limited to infrastructure, equal employment opportunity, antitrust, trade controls, ethical business practices and supplier relationships. The question owner's matrix 100 may also identify potential interviewees 104 by function for each area assessment using the knowledge base. Examples of interviewees 104 include, but are not limited to engineering, marketing, manufacturing, legal, purchasing, finance, and human resources.

(Barton, paragraph 0062)

Barton appears to teach conducting interviews to determine the compliance program status (78). The specific questions are determined based on a knowledge base which is stored on a server 12. Applicant submits that the interviews (78) of Barton referred to in the Office Action appear to be related to the process of "receiving a first input from an input device, the first input reflecting the assessor's perception of the organizational process or system" rather than being related to "prompting an assessor to select at least two standards against which to assess the organization process or system." Applicant submits that the interview process (78) of Barton is based on selections already made and saved in the knowledge base.

As stated above, Applicant's claims are directed to customizing a method of gathering information regarding an organizational process or system. For example Applicant's specification states in part:

The organizational assessment system preferably includes a plurality of questions directed the requirements of recognized standards. Recognized standards may include national and international standards as well as industry specific standards. The standards may prescribe system or process criteria regarding quality, leadership, cost, delivery, customer satisfaction, manufacturing technology, tool development, and/or environmental, health and safety concerns. Such standards may include, but are not limited to: ISO 9000, AS 9000, QS 9000, ISO 14000, ASQC, Lean Manufacturing, Six Sigma, etc. The operational assessment system may also include questions directed to financial, and other business concerns, or other topics. For example, Table 1 contains a list of topics that may be presented. The assessment initiator system may request information concerning which standard (or standards) are to be used when evaluating an organizational process or system (step 311).
(Specification, page 8, line 27 - page 9, line 8)).

Applicant submits that Barton does not appear to teach or suggest the features that are not taught by Gupta. Specifically, Applicant submits that the combination of the features of the claim including, but not limited to, “prompting an assessor to select at least two standards against which to assess the organization process or system” are not taught or suggested by Guinta alone or in combination with Barton. As such, Applicant submits that claim 1 and the claims dependent thereon are patentable over Barton.

For at least the reasons stated above, Applicant submits that claims 40, 53, and the claims dependent thereon are patentable over Guinta in view of Barton.

F. The Claims Are Not Obvious Over Guinta In View of Barton et al. In Further View of Mann Pursuant To 35 U.S.C. § 103(a)

Claims 25-27, 48, 50, 51, 74-77, 100, 101, and 135-137 were rejected as being unpatentable over Guinta in view of Barton et al. in further view of U.S. Published Application No. 2002/0019765 to Mann et al. (hereinafter “Mann”). Applicant respectfully disagrees with these rejections.

Claim 25 states in part, “further comprising preparing an assessment timeline based on assessor input.”

Claim 26 states in part, “further comprising notifying the assessor of a deadline identified in the assessment timeline.”

Claim 27 states in part, “further comprising escalating a notification to one or more predetermined individuals if a response is not received from an assessor within a predetermined period of time.”

The Office Action States,

As per claims 25-27, neither Guinta et al nor Barton et al disclose preparing an assessment timeline based on assessor input, notifying the assessor of a deadline identified in the assessment, timeline, and escalating a notification to one or more predetermined individuals if a response is not received from an assessor within a predetermined period of time. Mann et al disclose an evaluation database 5 to track the progress of an evaluation including a deadline for completing the evaluation 903 (¶ 0061)....Further tracking the progress of the assessors in Guinta et al provides an organization with an overall status of the evaluation (as disclosed in Mann et al. ¶ 0063), therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to include preparing a timeline and notifying the assessor of a deadline in Guinta et al, as seen in Mann et al, thus making the assessment process in Guinta et al more efficient.

(Office Action, page 16).

Mann does not appear to teach or suggest the features of the claims including, but not limited to, the features of: “an assessment timeline based on assessor input,” notifying the assessor of a deadline in the assessment timeline,” or “escalating a notification”. Mann appears to teach tracking a status of an evaluatee or evaluator completing an evaluation form based on the evaluatee starting the evaluation. The information provided by Mann, therefore relates to determining if an evaluation is completed. For example Mann states,

Referring now to FIG. 10, there is shown a screenshot of a completion data form 1000 according to an exemplary embodiment in which the overall status of evaluations throughout the organization can be monitored. In particular, completion data form 1000 allows an administrator to track the status of each phase of all the evaluations being conducted in the organization. In an exemplary embodiment, completion data form 1000 displays a manager nomination status

line 1001 indicating the employees that have nominated a manager as an evaluator. A completed column 1009 and a percent (%) completed column 1010 indicates the number and percent of employees that have nominated managers as evaluators, respectively. Completion data form 1000 also displays a manager confirmation status 1002 line that indicates the number and percentage of manager's that confirmed their nomination as evaluators. An evaluator nomination status line 1003 is included that indicates the number and percent of employees that have nominated others, such as peers and direct reports, as evaluators. A self-evaluation status line 1004 is included that indicates the number and percentage of evaluatees that have completed their self-evaluation. A manager evaluation status line 1005 is included that indicates the number and percentage of managers that have completed their assigned manager evaluations. A feedback status line 1006 is included that indicates the number and percentage of evaluations that have been sent to evaluatees for the evaluatees comments. A feedback link status (evaluatees) line 1007 and a feedback link status (manager) line 1008 are included that indicates the number and percentage of evaluations that have been signed off by evaluatees and managers, respectively. In addition, any other information regarding the status of the evaluation process may be displayed by completion data form 1000.

In an exemplary embodiment, upon activating each of status lines 1001-1008, such as by clicking on it with a computer mouse, a list of the information summarized by the particular one of status lines 1001-1008 is displayed. For example, by activating manager nomination status line 1001, a list of the employees that have nominated managers as evaluators is displayed. Accordingly, completion data form 1000 provides the administrator with a snapshot of the evaluation process throughout the organization as well as the ability to examine any aspect of the process in greater detail.
(Mann, page 5, paragraphs 0063 and 0064).

Mann does not appear to teach determining a timeline for the completion of the evaluation forms. Mann also does not appear to teach sending notifications to the evaluator based on a deadline in a timeline.

Applicant's specification states:

Notification system 216 may generate an assessment timeline based on information gathered by assessment initiator system 210. Notification system 216 may be configured to export timeline data for use in another software application. For example, notification system 216 may export timeline data which is formatted for use with project management type software application. Exporting timeline data may allow an organization to generate a graph, chart, or other visual summary depicting the timeline. For example, a Gant chart may be generated

from the timeline data. In addition, notification system 216 may be configured to merge data gathered by assessment initiator system 210, information gathering system 212, or corrective action system 214 with the timeline data. For instance, general organization information such as address, contacts, etc. may be merged with timeline data for export. Notification system 216 may then initiate information gathering system 212 by notifying appropriate individuals identified by assessment initiator system 210 that the individuals have been selected as assessors to gather specific information relating to the relevant organization within the assessment timeline. Notification system 216 may request acknowledgement of notification and may escalate notification if an acknowledgement is not received in a timely manner. For example, notification system 216 may request that a first individual, identified assessor in assessment initiator system 210, acknowledge receipt of the notification within a predetermined first time period. If receipt of notification is not received by notification system 216 within a predetermined first period of time, notification system 216 may issue a second notification to the assessor. The second notification may include a request to respond with a notification of receipt within a predetermined second time period. If notification of receipt is not received by notification system 216 within the second time period the notification system may escalate the notification. For instance, notification system 216 may notify a second individual of the assessment timeline. Notification system 216 may further notify the second individual that the first individual has not acknowledged receipt of notification within a predetermined time period. The second individual may be an alternate assessor identified in assessment initiator system 210. Alternately, the second individual may be a supervisor, manager, or other organization official empowered to direct the first individual to acknowledge receipt of the notifications, or to select a different assessor instead of the first individual.

(Specification, page 10, line 5 through page 11, line 5)

Applicant submits there is no motivation or suggestion in Mann that an employee evaluation is completed by a certain time, that the evaluatee or evaluator is notified of a deadline during the evaluation, or that someone other than the evaluator or evaluatee is notified if the evaluator or evaluatee has not responded to evaluation.

Applicant submits the combination of the features of claims 25-27 are not taught or suggested by Guinta alone or in combination with Barton and/or Mann. Applicant submits that claims 25-27 are patentable over Guinta in view of Barton and in further view of Mann.

For at least the reasons stated above, Applicant submits claims 48, 50, 51, 74-77, 100, 101, and 135-137 are patentable over Guinta in view of Barton and in further view of Mann.

G. New Claims

Support for new claims 144 and 145 is found in Applicant's original claims 1 and 28.

For at least the reasons stated above, Applicant submits that claims 144 and 145 are patentable over Guinta in view of Barton and in further view of Mann.

H. Prior Art of Record

The Office Action lists U.S. Patent Nos. 6,850,892 to Shaw; 6,556,975 to D'Alessandro; and 6,662,192 to Rebane; and U.S. Published Application Nos. 2002/0049621 to Bruce as prior art made of record.

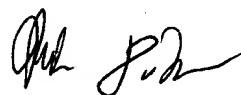
Applicant submits that claims 1-27, 30-60, 62-101, 104-145 are not taught or suggested by the cited art.

I. Additional Remarks

Based on the above, Applicant respectfully requests favorable reconsideration.

If any extension of time is necessary, Applicant hereby requests the appropriate extension of time. Applicant has enclosed a Fee Authorization to cover the fee for one independent claim in excess of three. If any additional fees are inadvertently omitted or if any fees are required, please charge those fees to Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C. Deposit Account Number 50-1505/5078-02500/EBM.

Respectfully submitted,



Mark R. Deluca
Reg. No. 44,649

Patent Agent for Applicant

MEYERTONS, HOOD, KIVLIN, KOWERT, & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398
(512) 853-8800 (voice)
(512) 853-8801 (facsimile)

Date: 8/5/05